IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6215 OF 2005

Smt.Chandrabhagabai Rambhau Jawalkar)
Since deceased through Smt.Shantabai)
Laxman Dhavle and others).. Petitioners

Versus

Kumari Leelabai D.Pardeshi and others).. Respondents

Mr.G.S. Godbole with Ms.M.S. Parasnis for the Petitioners.

Mr.S.J. Rairkar for Respondent Nos.1 to 3.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH OCTOBER 2005

P.C.:

. This Petition challenges concurrent findings of fact of both the Courts below. The Suit has been decreed on the ground of change of user, sub-letting and bona fide and reasonable need of the landlord for the suit premises. Both the Courts below have found on evidence that sub-letting has been proved. On evidence it has been held that the Petitioners have changed the use of the open plot of land of which they were tenants. Instead of running the business of a charcoal and firewood depot in the suit premises for which they were let, they are being used as a garage. Both the Courts below have found that the landlady reasonably and bona

fide requires the suit premises in order that her sons who are educated can start their own business in the suit premises. In my view, there is no need to interfere with the impugned orders.

2. The submission of the learned Advocate for the Petitioners that the Appellate Court has not independently dealt with the issue of sub-letting is not borne out from the discussion obtaining in the order of the Appellate Court. There are no infirmities in the orders of both the Courts below. Hence, Writ Petition rejected.

3. Time to vacate the premises granted upto 31st December 2006 on the Petitioners filing the usual undertaking. Affidavits of the Petitioners shall be filed within four weeks from today stating that they are in possession of the suit premises and they will not induct any third person in the suit premises and will hand over vacant possession of the suit premises by 31st December 2006.